

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXXX

Petitioner

v

File No. 122836-001

Priority Health Insurance Company

Respondent

Issued and entered
this 22nd day of November 2011
by R. Kevin Clinton
Commissioner

ORDER

I. PROCEDURAL BACKGROUND

On August 12, 2011, XXXXX (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Petitioner receives benefits through a Preferred Provider Organization (PPO) plan that is underwritten by Priority Health Insurance Company (Priority Health).

The Commissioner notified Priority Health of the external review and requested the information used in making its adverse determination. After a preliminary review of the material received, the Commissioner accepted the Petitioner's request for external review on August 19, 2011.

Because medical issues are involved, the Commissioner assigned the case to an independent review organization which provided its analysis and recommendations on September 2, 2011. (A copy of the complete report is being provided to the parties with this Order.)

II. FACTUAL BACKGROUND

Petitioner lost significant weight and as a result has excessive skin in her abdominal area. She sought prior authorization from Priority Health for a panniculectomy, a surgical procedure

to remove the excess skin. Priority Health denied coverage, concluding that a panniculectomy was not medically necessary.

Petitioner appealed the denial through Priority Health's internal grievance process. Priority Health issued its final adverse determination on August 4, 2011, affirming its denial of coverage.

III. ISSUE

Did Priority Health correctly deny coverage for Petitioner's panniculectomy?

IV. ANALYSIS

Petitioner's Argument

Petitioner states that due to the excess skin she experiences back pain. She indicates it is even worse in the summertime and causes difficulty when trying to work. She states she is miserable every day. The Petitioner has two physicians who believe the surgery is medically necessary.

The surgeon seeking authorization to perform the panniculectomy supplied medical documentation including photos and records to demonstrate the Petitioner's need for the procedure. In a letter dated June 14, 2011, the surgeon wrote:

The [Petitioner] presents to my office following a 125 pound weight loss by diet, exercise, and the use of Byetta. She now has complaints of a large pannicular apron extending from above the umbilicus to below the inguinal areas. There are several folds and rolls associated with this. A scar is present supraumbilically where a desmoid tumor was removed, without signs of recurrence or hernia. An additional tumor was removed from the right upper chest. There is a large hypertrophic scar present here. The patient is complaining of panniculitis and irritation in the intertrigonal areas bilaterally.

She is now interested in undergoing operative functional panniculectomy for relief of panniculitis. This would necessitate address in two planes, but to reduce risk of wound healing difficulties, which are so commonly associated with these procedures, I have advised that it be done with a single overnight stay in the hospital. This would have the effect of correcting her problem. It would likely be sufficient as a single operation to address her complaints and may possibly lead to relieving her of the need for Glucophage and Byetta treatments for Type II Diabetes, as is often the case. She stands 5'2" and weighs 200 pounds. She has a lot of excess skin and subcutaneous tissue present. This would necessitate Panniculectomy. . . .

In a letter dated July 21, 2011, Petitioner's nurse practitioner wrote:

Due to [Petitioner's] weight loss of 102 pounds over the past year she has had multiple episodes of recurrent non-healing candidiasis, ulcerative, in her intertriginous areas and under her bilateral breasts despite medical therapy. [Petitioner] has diabetes and her poor healing contributes to the increased ulcerations under her breast and abdominal folds.

The panniculus, due to her size and weight, has caused her significant impairment, which is directly attributed to the weight of her breasts and abdominal skin folds. This weight has attributed to her chronic back pain and interferes with her activities of daily living. This is also putting a huge strain on her musculoskeletal system.

I am aware that [Petitioner's surgeon] has sent documentation of [Petitioner's] need for the procedure along with frontal and lateral photographs to verify that her panniculus does hang below the level of her pubis.

I truly feel that [Petitioner] is a candidate for the panniculectomy and this intervention will correct her chronic back pain, increase of ROM, improve her functional impairment and candidiasis episodes.

Respondent's Argument

In its final adverse determination, Priority Health stated that the Petitioner did not meet its criteria for coverage for panniculectomy surgery. The criteria are listed in Priority Health's Medical Policy 91444-R5 (Panniculectomy/Abdominoplasty):

II. POLICY/CRITERIA

- A. The excision of excess abdominal fat and skin is most often a cosmetic procedure and is not a covered benefit. Exceptions for medical necessity or functional impairment may be made if the criteria listed below are met.
 - 1. Panniculectomy/abdominoplasty may be a covered benefit upon prior authorization by Priority Health when one of the following is met:
 - a. Documentation by the treating physician, dermatologist or an infectious disease specialist that the panniculus causes recurrent episodes of infection that do not respond to treatment or recurrent non-healing ulcerations over 6 months despite appropriate medical therapy (e.g. oral or topical prescription medication) *or*

- b. Documentation by the treating physician that the panniculus directly causes, due to its size and weight, significant clinical functional impairment which is directly attributable to the size and weight of the panniculus. “Clinical functional impairment” exists when the pannus causes significant cardiopulmonary or musculoskeletal dysfunction, or major psychological trauma, that interferes with activities of daily living, and there is reasonable evidence to support that this intervention will correct the condition to which it is being attributed to. Further definition can be located in the Certificate of Coverage.
- 2. The following criteria must also be met:
 - a. Documentation with frontal and lateral photographs that the panniculus hangs to or below the level of the pubis.
 - b. Documentation by the treating physician that has determined that conservative management has failed, and that a panniculectomy will resolve the symptoms.

Based on these standards, Priority Health concluded:

Medical records reviewed do not evidence member has been treated by a treating physician, dermatologist or infectious disease specialist for recurrent episodes of infection or recurrent non-healing ulcerations that do not respond to treatment over 6 months despite appropriate medical therapy (e.g. oral or topical prescription medication) caused by the panniculus. In addition, medical records do not evidence clinical functional impairment or documentation with frontal and lateral photographs that the panniculus hangs to or below the level of the pubis.

Priority Health maintains that its denial of authorization was appropriate.

Commissioner’s Review

The Petitioner’s insurance policy excludes coverage for surgery that is not medically necessary. To determine if a panniculectomy surgery is medically necessary for the treatment of the Petitioner’s condition, the case was presented to an independent review organization (IRO) for analysis as required by section 11(6) of the Patient’s Right to Independent Review Act, MCL 550.1911(6).

The IRO reviewer is a physician who has been in practice for more than 15 years and is board certified in plastic surgery. The reviewer, who is familiar with the medical management of patients with the Petitioner’s condition, has examined the medical records and the arguments present by the parties and has provided the following analysis and conclusion:

[P]hotographs provided for review show that the member has a modest pannus, which does not hang below the mons pubis. . . . [T]he photographs provided for review do not show a significant active infection or skin maceration. . . . [T]he medical records provided for review does not demonstrate that the member's pannus interferes with her activities of daily living. . . . [T]here is no evidence of infections in the member's intra-abdominal fold that are not responsive to anti-fungal agents or systemic antibiotics over a period of time.

The reviewer concluded that a panniculectomy is not medically necessary for the treatment of Petitioner's condition.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the IRO recommendation is afforded deference by the Commissioner. In a decision to uphold or reverse an adverse determination, the Commissioner must cite "the principal reason or reasons why the Commissioner did not follow the assigned independent review organization's recommendation." MCL 550.1911(16)(b). The IRO's analysis is based on extensive experience, expertise and professional judgment and the Commissioner can discern no reason why the IRO's recommendation should be rejected in the present case.

The Commissioner finds that Priority Health's denial of coverage for the Petitioner's panniculectomy is consistent with the terms of the policy.

V. ORDER

The Commissioner upholds Priority Health Insurance Company's final adverse determination of August 4, 2011. Priority Health is not required to provide coverage for Petitioner's requested panniculectomy.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than 60 days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.

R. Kevin Clinton
Commissioner